THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO :5544 of 2006

DATED: 13-03-2007

BETWEEN:

Dhuli Ganga Raju.

..... PETITIONER

AND

The Superintendent of Police,
Kakinada,
East Godavari District & 4 others

.....RESPONDENTS

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the respondents 1 to 4 in not taking any action on the complaint of the petitioner, dated 22-02-2006, submitted to the 1st respondent, as illegal, and arbitrary, and consequently direct for investigation of the said complaint by any Investigating Officer other than the 4th respondent, and book a criminal case and take appropriate action against the 5th respondent.

3. Petitioner made a representation, dated 22-02-2006, before the 1st respondent-Superintendent of Police making certain allegations against the 5th respondent and also with regard to the illegal closure of the earlier crime. In that regard, the learned Government Pleader for Home appearing for the respondents obtained instructions and submitted that the case registered on a private complaint of the petitioner on 13-12-2005 was investigated and the same was referred as 'false' on 31-01-2006. It is further stated that certain disputes are pending before the civil Court between the petitioner and the 5th respondent and cases against one

Dhuli Satyanarayana, son of the petitioner herein, and the 5th respondent were also pending in Cr.Nos.561 of 2005 and 562 of 2005 for the offence punishable under

Section 324 IPC and after investigation charge sheets were also filed which were numbered as C.C.Nos.225 & 226/06 respectively. Insofar as referring the earlier complaint of the petitioner as false, it is always open for the petitioner either to file a protest application or to seek appropriate action under

Section 159 Cr.P.C. Therefore, I am of the opinion that without taking recourse under the relevant provisions of the Code of Criminal Procedure and without filing a protest application, the question of directing the other Investigating Officer to conduct investigation does not arise.

4. Accordingly, the Writ Petition is dismissed. No order as to costs.

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V.ESWARAIAH, J

13th March, 2007

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